Supreme Court, U.S.
FILED
SEP 18 1992
OFFICE OF THE CLERK

No. 92-248

IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

WILLIAM O. MOZEE, *et al.*,
Petitioners,
v.
AMERICAN COMMERCIAL MARINE SERVICE COMPANY,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

RESPONDENT'S SUPPLEMENTAL BRIEF IN OPPOSITION

JAMES S. WHITEHEAD
(Counsel of Record)
SIDLEY & AUSTIN
One First National Plaza
Chicago, IL 60603
(312) 853-7703

JOHN K. GORDINIER
PEDLEY, ROSS, ZIELKE
& GORDINIER
455 South Fourth Ave.
Louisville, KY 40202

LISA L. FLEMING
AMERICAN COMMERCIAL MARINE
SERVICE COMPANY
P.O. Box 610
Jeffersonville, IN 47130
Counsel for Respondent

September 18, 1992

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

BEST AVAILABLE COPY

IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

No. 92-248

WILLIAM O. MOZEE, *et al.*,
Petitioners,

v.

AMERICAN COMMERCIAL MARINE SERVICE COMPANY,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

---

RESPONDENT'S SUPPLEMENTAL BRIEF IN OPPOSITION

Respondent American Commercial Marine Service Company, Jeffboat Division, submits this Supplemental Brief in Opposition pursuant to Supreme Court Rule 15.7 in order to call to this Court's attention the recent decision of the United States Court of Appeals for the District of Columbia Circuit in *Gersman* v. *Group Health Ass'n, Inc.*, No. 89-5482, 1992 U.S. App. LEXIS 21615 (D.C. Cir. Sept. 15, 1992).

As Respondent explained at pp. 6-7 of its Brief in Opposition, every court of appeals to have considered the effect of the 1991 Civil Rights Act, Pub. L. No. 102-166, 105 Stat., on cases pending on November 21, 1991, the Act's effective date, has held that the Act does not apply. The D.C. Circuit has now joined the Fifth, Sixth, Seventh, and Eighth Circuits. In *Gersman*, the D.C. Circuit ruled

that Section 101 of the 1991 Act, which modified 42 U.S.C. § 1981, does not apply retroactively to pending cases seeking redress under Section 1981 for conduct occurring prior to the 1991 Act's enactment.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

JAMES S. WHITEHEAD
(Counsel of Record)
SIDLEY & AUSTIN
One First National Plaza
Chicago, IL 60603
(312) 853-7703

JOHN K. GORDINIER
PEDLEY, ROSS, ZIELKE
& GORDINIER
455 South Fourth Ave.
Louisville, KY 40202

LISA L. FLEMING
AMERICAN COMMERCIAL MARINE
SERVICE COMPANY
P.O. Box 610
Jeffersonville, IN 47130
Counsel for Respondent

September 18, 1992